2013 Chief FOIA Officer Report

Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

All FOIA contacts continued to participate in training on the newly implemented FOIA Case Tracking and Management System. The FOIA staff conducted individual and office-wide FOIA training throughout the reporting period. The Mandatory Online FOIA Training has been updated to be more interactive and informative. Posted on the Small Business Administration's (SBA) Training Homepage are, FOIA Mandatory Training, videos of on-site DOJ FOIA training, FOIA Training for the Agency's Management Board, FOIA Case Tracking and Management System Training aides and links to DOJ's FOIA training sites.

> Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

Yes, members of SBA's FOI/PA Office staff attended all of OIP's FOIA training seminars during the reporting period.

> In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

1. Did your agency make any discretionary releases of otherwise exempt information?

Yes, SBA did make discretionary releases of otherwise exempt information. Though the majority of SBA records are either commercial or personal in nature, the FOIA Office continues to encourage the presumption and practice of disclosure of non-commercial or non-personal records as much as practically possible.

1. What exemptions would have covered the information that was released as a matter of discretion?

Exemption 5 would have covered information released as a matter of discretion.

1. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

> SBA disclosed internal discussions and analysis that did not undermine or harm program effectiveness. Traditionally these types of records were often afforded Exemption 5 protection. Disclosure is promoted and encouraged as much as practically possible.

1. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

SBA's FOIA processing instructions contain guidance on the presumption of openness, transparency and accountability. All FOIA responses are reviewed for compliance of these concepts and are remanded for reassessment if necessary. When meeting or consulting with FOIA contacts, the FOIA Office advises and encourages that this policy be employed in the preparation of all FOIA responses.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests."

This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

1. Do FOIA professionals within your agency have sufficient IT support?

   Yes, SBA has an IT Helpdesk staff that assists with any IT technical issues. SBA's FOIA contacts have access and use of a FOIA Case Tracking and Correspondence Management System.

1. Do your FOIA professionals work with your agency's Open Government Team?

   Yes, the FOIA staff meets and consults with SBA's Open Government Team.

1. Has your agency assessed whether adequate staffing is being devoted to FOIA administration?

   The FOIA Office recently hired an additional staff member and the Office works very closely with the Agency's FOIA Contacts and Public Liaisons to ensure that each office has sufficient FOIA staffing levels.

1. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, streamlining consultations, eliminating redundancy, etc.

   SBA's FOI/PA Office has continuous interaction with the it's FOIA Contacts and employs an automated FOIA Case Tracking and Correspondence Management system for use by Agency FOIA Contacts. Use of electronic communication provides efficient, automatic and wide-spread communication which positively effects SBA's FOIA processing.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2012 to March 2013). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Provide examples of material that your agency has posted this past year:

   Small Business Administration Strategic Plan 2011-2016

   Office of Hearings and Appeals (OHA) Appeals

   OHA Decisions

   Weekly Lender Reports

- Congressional Correspondence
- Updated Agency credit card holder list
- Loan Loss Reports Fiscal Years 1996 – 2006
- Fiscal Year 2013 Congressional Budget Justification and Fiscal Year 2011 Annual Performance Report
- Fiscal Year 2012 Congressional Budget Justification and Fiscal Year 2010 Annual Performance Report
- Fiscal Year 2011 Congressional Budget Justification and Fiscal Year 2009 Annual Performance Report
- Fiscal Year 2010 Congressional Budget Justification
- Fiscal Year 2011 Summary of Performance and Financial Information
- Fiscal Year 2010 Summary of Performance and Financial Information
- Fiscal Year 2009 Summary of Performance and Financial Information
- Fiscal Year 2012 Agency Financial Report
- Fiscal Year 2011 Agency Financial Report
- Fiscal Year 2010 Agency Financial Report
- Fiscal Year 2009 Agency Financial Report
- Fiscal Year 2011 Verification and Validation Forms
- President’s Proposed Fiscal Year 2011 Budget for SBA
- Annual Performance Report for Fiscal Year 2008
- Citizen’s Report for Fiscal Year 2008
- SBA Loan Program Performance
- Status of Program Performance and Improvement Efforts
- Status of President’s Management Agenda Initiatives
- GAO High Risk Improvement Plans and Status of Implementation
- Quarterly Personal Identity Verification Compliance Identity Credentials Issued
- Recovery Act Reports
- Lending: Suspensions and Debarments
- Contracting: Suspensions and Debarments
- Contracting: Suspensions and Debarments Narratives
- Statement from SBA Administrator on the Revocation of EDFs Authority to Participate in the 504 Program
- EDF Final Agency Decision Document

Surplus Property Information Page

SBA 8(a) Partnership Agreements – 2012

- Inspector General Reports on: Business Loans and Lender Oversight
  - Disaster Loans
  - Surety Bonds
  - Small Business Investment Companies
  - Government Contracting and Business Development
  - Entrepreneurial Development

Agency Management

External Quality Control Review

Hotline Information

Recovery Oversight

Recent Investigations and Audit Actions

Semi-Annual Reports to Congress

Top Management Challenges

1. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities on the site, creating mobile applications, providing explanatory material, etc.?

Yes, SBA is taking such steps.

3. If so, provide examples of such improvements.

SBA's public homepage has been remodeled to better meet the needs of the small business community. The most popular hot links on the public website are routinely revised to meet current issues and interests. The agency is active on social media sights such as Facebook, Twitter, UTube and Foursquare.

4. Describe any other steps taken to increase proactive disclosures at your agency.

The FOI/PA Office reviews FOIA requests and meets with Agency offices to promote proactive disclosures. The Agency's Open Government Team actively promotes transparency and open government concepts.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. In 2010 and 2011, agencies reported widespread use of technology in receiving and tracking FOIA requests and preparing agency Annual FOIA Reports. For 2013, as we did in 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

Electronic receipt of FOIA requests :

1. Can FOIA requests be made electronically to your agency?

Yes, the majority of all requests are submitted electronically

1. If your agency is decentralized, can FOIA requests be made electronically to *all* components of your agency?

Yes

Online tracking of FOIA requests:

1. Can a FOIA requester track the status of his/her request electronically?

No, requesters cannot track their requests electronically.

1. If so, describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed,"

while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review. "List the specific types of information that are available through your agency's tracking system.

N/A

1. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?

N/A

1. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?

Funding is not currently available for SBA to acquire a new database.

Use of technology to facilitate processing of requests:

1. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

Yes.

8. If so, describe the technological improvements being made.

SBA employs a FOIA Case Tracking and Correspondence Management system which has the capability to store and share documents.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests and appeals. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2012 Annual FOIA Report.*

1. Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.

a. Does your agency utilize a separate track for simple requests?

No, SBA processes all requests according as soon as possible regardless of the track.

b. If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer?

N/A

c. If your agency does not track simple requests separately, was the average number of days to process non- expedited requests twenty working days or fewer?

4.2 days

1. Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2012 as compared to Fiscal Year 2011. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Year 2011 and Fiscal Year 2012 should be used for this section.

a. If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011?

No, the Fiscal Year 2012 backlog increased as compared to Fiscal Year 2011.

b. If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011?

SBA did not have a backlog of administrative appeals for either Fiscal Year 2011 or Fiscal Year 2012.

c. In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011?

Yes

d. In Fiscal Year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011?

N/A

1. If you answered "no" to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:

Request Backlog:

a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

Yes, SBA received approximately 23% more requests during Fiscal Year 2012.

b. Was the lack of a reduction in the request backlog caused by a loss of staff?

The office with the greatest number of backlogged requests did experience staffing shortages during the reporting time; the FOIA Office has provided assistance to reduce the backlog.

c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

Yes, some of the requests involve large volumes of documents that require line-by-line review.

d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

N/A

Administrative Appeal Backlog:

a. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?

N/A

b. Was the lack of a reduction in the appeal backlog caused by a loss of staff?

N/A

c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?

N/A

d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?

N/A

4. OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information. If your agency had a backlog in Fiscal Year 2012, please provide an estimate of the number of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

Approximately 30% of the Fiscal Year 2012 backlogged requests received substantive interim responses.

Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2012?

No

1. If so, what was the total number of times exclusions were invoked?

N/A

Spotlight on Success

Out of all the activities undertaken by your agency since March 2012 to increase transparency and improve FOIA administration, describe here one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas

During the reporting period, SBA has had significant decrease in the use of Exemptions 4 and 5 as the basis for withholding information:

50% Decrease in Ex. 4 citings: 2011 104

2012 59

78% Decrease in Ex. 5 citings: 2011 72

2012 19

An additional success is SBA's Office of Human Resource Solutions (OHRS) efforts to promote Open Government which resulted in the publication of the U.S Small Business Administration Strategic Plan. This strategic document is posted on SBA's homepage. The most current plan, for the years 2011-2016, along with its addendum, is accessible by the public at http://www.sba.gov/about-sba-info/11572. Additionally, OHRS has incorporated principles of open government in its new employee orientation by ensuring employees are familiar with the Agency's 5-Year Strategic Plan, and by reviewing Agency policies, procedures, and best practices. The Administrator also routinely updates employees on critical issues affecting the Agency through the SBA Daily, an internal daily electronic news bulletin to all SBA employees. Additionally, SBA's Deputy Administrator hosts the Agency's Quarterly Town Hall, in which she briefs staff on the Agency's most pressing issues. The Deputy Administrator also solicits input and questions from employees. SBA's new Strategic Human Capital Plan (SHCP) for FY 2013–2016 has been made available to all employees.

The new SHCP strengthens the Agency's ability to proactively meet many of the issues facing small businesses today, as well as supports the three goals identified in SBA's Strategic Plan, particularly the second strategic goal: Building an SBA to meet the needs of today's small businesses. The Plan reflects a partnership between SBA's Program Offices and Human Resources. The Plan ensures SBA has an agile and diverse workforce with the right skills to get the job done, and it promotes a culture of excellence where employees' talents are leveraged to build the Agency's capacity to achieve its critical goals. The Agency will continue to create and sustain the organizational excellence needed to deliver our four strategic human capital goals:

1. Build Strategic Partnerships
2. Prepare for Retirement Waves
3. Invest in SBA Employees
4. Incorporate Human Capital Flexibilities, Best Practices, and Innovation